

SB2270



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2270

Introduced 2/15/2013, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

720 ILCS 5/36-1

from Ch. 38, par. 36-1

Amends the Criminal Code of 2012. Provides for the seizure of a vessel, vehicle or aircraft used with the knowledge and consent of the owner in the commission of home repair fraud or aggravated home repair fraud.

LRB098 04465 RLC 34493 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 36-1 as follows:

6 (720 ILCS 5/36-1) (from Ch. 38, par. 36-1)

7 Sec. 36-1. Seizure. Any vessel, vehicle or aircraft used
8 with the knowledge and consent of the owner in the commission
9 of, or in the attempt to commit as defined in Section 8-4 of
10 this Code, an offense prohibited by (a) Section 9-1, 9-3, 10-2,
11 11-1.20, 11-1.30, 11-1.40, 11-6, 11-14.4 except for keeping a
12 place of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
13 11-20.1, 11-20.1B, 11-20.3, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3,
14 12-4.6, 12-7.3, 12-7.4, 12-13, 12-14, 16-1 if the theft is of
15 precious metal or of scrap metal, 18-2, 19-1, 19-2, 19-3, 20-1,
16 20-2, 24-1.2, 24-1.2-5, 24-1.5, 28-1, or 29D-15.2 of this Code,
17 subdivision (a) (1), (a) (2), (a) (4), (b) (1), (e) (1), (e) (2),
18 (e) (3), (e) (4), (e) (5), (e) (6), or (e) (7) of Section 12-3.05,
19 paragraph (a) of Section 12-4 of this Code, paragraph (a) of
20 Section 11-1.50, paragraph (a) of Section 12-15, paragraph (a),
21 (c), or (d) of Section 11-1.60, or paragraphs (a), (c) or (d)
22 of Section 12-16 of this Code, or paragraph (a) (6) or (a) (7) of
23 Section 24-1 of this Code; (b) Section 21, 22, 23, 24 or 26 of

1 the Cigarette Tax Act if the vessel, vehicle or aircraft
2 contains more than 10 cartons of such cigarettes; (c) Section
3 28, 29 or 30 of the Cigarette Use Tax Act if the vessel,
4 vehicle or aircraft contains more than 10 cartons of such
5 cigarettes; (d) Section 44 of the Environmental Protection Act;
6 (e) 11-204.1 of the Illinois Vehicle Code; (f) (1) driving
7 under the influence of alcohol or other drug or drugs,
8 intoxicating compound or compounds or any combination thereof
9 under Section 11-501 of the Illinois Vehicle Code during a
10 period in which his or her driving privileges are revoked or
11 suspended where the revocation or suspension was for driving
12 under the influence of alcohol or other drug or drugs,
13 intoxicating compound or compounds or any combination thereof,
14 Section 11-501.1, paragraph (b) of Section 11-401, or for
15 reckless homicide as defined in Section 9-3 of the Criminal
16 Code of 1961; (2) driving while under the influence of alcohol,
17 other drug or drugs, intoxicating compound or compounds or any
18 combination thereof and has been previously convicted of
19 reckless homicide or a similar provision of a law of another
20 state relating to reckless homicide in which the person was
21 determined to have been under the influence of alcohol, other
22 drug or drugs, or intoxicating compound or compounds as an
23 element of the offense or the person has previously been
24 convicted of committing a violation of driving under the
25 influence of alcohol or other drug or drugs, intoxicating
26 compound or compounds or any combination thereof and was

1 involved in a motor vehicle accident that resulted in death,
2 great bodily harm, or permanent disability or disfigurement to
3 another, when the violation was a proximate cause of the death
4 or injuries; (3) the person committed a violation of driving
5 under the influence of alcohol or other drug or drugs,
6 intoxicating compound or compounds or any combination thereof
7 under Section 11-501 of the Illinois Vehicle Code or a similar
8 provision for the third or subsequent time; (4) the person
9 committed the violation while he or she did not possess a
10 driver's license or permit or a restricted driving permit or a
11 judicial driving permit or a monitoring device driving permit;
12 or (5) the person committed the violation while he or she knew
13 or should have known that the vehicle he or she was driving was
14 not covered by a liability insurance policy; (g) an offense
15 described in subsection (g) of Section 6-303 of the Illinois
16 Vehicle Code; ~~or~~ (h) an offense described in subsection (e) of
17 Section 6-101 of the Illinois Vehicle Code; (i) home repair
18 fraud as defined in Section 3 of the Home Repair Fraud Act; or
19 (j) aggravated home repair fraud as defined in Section 5 of the
20 Home Repair Fraud Act; may be seized and delivered forthwith to
21 the sheriff of the county of seizure.

22 Within 15 days after such delivery the sheriff shall give
23 notice of seizure to each person according to the following
24 method: Upon each such person whose right, title or interest is
25 of record in the office of the Secretary of State, the
26 Secretary of Transportation, the Administrator of the Federal

1 Aviation Agency, or any other Department of this State, or any
2 other state of the United States if such vessel, vehicle or
3 aircraft is required to be so registered, as the case may be,
4 by mailing a copy of the notice by certified mail to the
5 address as given upon the records of the Secretary of State,
6 the Department of Aeronautics, Department of Public Works and
7 Buildings or any other Department of this State or the United
8 States if such vessel, vehicle or aircraft is required to be so
9 registered. Within that 15 day period the sheriff shall also
10 notify the State's Attorney of the county of seizure about the
11 seizure.

12 In addition, any mobile or portable equipment used in the
13 commission of an act which is in violation of Section 7g of the
14 Metropolitan Water Reclamation District Act shall be subject to
15 seizure and forfeiture under the same procedures provided in
16 this Article for the seizure and forfeiture of vessels,
17 vehicles and aircraft, and any such equipment shall be deemed a
18 vessel, vehicle or aircraft for purposes of this Article.

19 When a person discharges a firearm at another individual
20 from a vehicle with the knowledge and consent of the owner of
21 the vehicle and with the intent to cause death or great bodily
22 harm to that individual and as a result causes death or great
23 bodily harm to that individual, the vehicle shall be subject to
24 seizure and forfeiture under the same procedures provided in
25 this Article for the seizure and forfeiture of vehicles used in
26 violations of clauses (a), (b), (c), or (d) of this Section.

1 If the spouse of the owner of a vehicle seized for an
2 offense described in subsection (g) of Section 6-303 of the
3 Illinois Vehicle Code, a violation of subdivision (d)(1)(A),
4 (d)(1)(D), (d)(1)(G), (d)(1)(H), or (d)(1)(I) of Section
5 11-501 of the Illinois Vehicle Code, or Section 9-3 of this
6 Code makes a showing that the seized vehicle is the only source
7 of transportation and it is determined that the financial
8 hardship to the family as a result of the seizure outweighs the
9 benefit to the State from the seizure, the vehicle may be
10 forfeited to the spouse or family member and the title to the
11 vehicle shall be transferred to the spouse or family member who
12 is properly licensed and who requires the use of the vehicle
13 for employment or family transportation purposes. A written
14 declaration of forfeiture of a vehicle under this Section shall
15 be sufficient cause for the title to be transferred to the
16 spouse or family member. The provisions of this paragraph shall
17 apply only to one forfeiture per vehicle. If the vehicle is the
18 subject of a subsequent forfeiture proceeding by virtue of a
19 subsequent conviction of either spouse or the family member,
20 the spouse or family member to whom the vehicle was forfeited
21 under the first forfeiture proceeding may not utilize the
22 provisions of this paragraph in another forfeiture proceeding.
23 If the owner of the vehicle seized owns more than one vehicle,
24 the procedure set out in this paragraph may be used for only
25 one vehicle.

26 Property declared contraband under Section 40 of the

1 Illinois Streetgang Terrorism Omnibus Prevention Act may be
2 seized and forfeited under this Article.

3 (Source: P.A. 96-313, eff. 1-1-10; 96-710, eff. 1-1-10;
4 96-1000, eff. 7-2-10; 96-1267, eff. 7-26-10; 96-1289, eff.
5 1-1-11; 96-1551, Article 1, Section 960, eff. 7-1-11; 96-1551,
6 Article 2, Section 1035, eff. 7-1-11; 97-333, eff. 8-12-11;
7 97-1109, eff. 1-1-13.)